



STATE OF MONTANA

DEPARTMENT OF ADMINISTRATION

ARCHITECTURE AND ENGINEERING DIVISION

1520 East Sixth Avenue • P.O. Box 200103 • Helena, Montana 59620.0103

Phone: 406.444.3104 • Fax: 406.444.3399

STANDARD FORM OF CONTRACT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION FOR WORK UNDER \$25,000

THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO THE UNIFORM ARBITRATION ACT, MCA TITLE 27, CHAPTER 5

This CONTRACT between the CONTRACTOR (as stated herein below) and the STATE OF MONTANA, acting by and through its DIRECTOR, DEPARTMENT OF ADMINISTRATION, hereinafter called the OWNER. WITNESSETH, that the Contractor and the Owner for the consideration hereinafter named agree as follows:

ARTICLE 1. SCOPE OF WORK. The Contractor shall perform all the Work as follows (use attachments as necessary):

ARTICLE 2. TIME OF COMPLETION. The Work to be performed shall commence on the date set forth in this Contract and shall be completed within or by:

ARTICLE 3. THE CONTRACT SUM. The Owner shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order, the Contract Sum of:

ARTICLE 4. PROGRESS PAYMENTS. Should this Contract extend beyond sixty (60) calendar days, the Owner shall make payments on account of the Contract as follows: Ninety-five percent (95%) of the portion of the Contract Sum for labor, materials, and equipment incorporated in the Work and of materials suitably stored at the project site or at some other location agreed upon in writing. The Owner shall make payment within thirty (30) calendar days after receipt of Form 101, Periodic Estimate for Partial Payment request, subject to review and approval. The Contractor shall, within seven (7) days following receipt of payment from the Owner, make payment to any Subcontractor(s) and/or Supplier(s), less any retainage as provided between the Contractor and Subcontractor(s) and or Supplier(s).

ARTICLE 5. FINAL PAYMENT. Final payment constituting the entire unpaid balance of the Contract Sum shall be paid by the Owner to the Contractor when: 1) the Work has been completed to the Owner's satisfaction; 2) the Contract has been fully performed; and 3) an Affidavit on Behalf of the Contractor form has been submitted. The Contractor warrants all workmanship and materials for a period of one (1) calendar year from the date of final payment.

ARTICLE 6. VENUE. In the event of litigation or arbitration concerning the Contract, venue shall be the First Judicial District in and for the County of Lewis and Clark, Montana, and the Contract shall be interpreted according to the laws of Montana.

ARTICLE 7. MISCELLANEOUS. See reverse side of Contract.

This Contract entered into as of the day and year written:

CONTRACTOR:

(Company)

(Address)

(City, State, ZIP)

(Signature)

(Date)

Taxpayer's I.D. No.

Contractor's Registration Certificate No.

Is this company incorporated? _____ No _____ yes

OWNER: STATE OF MONTANA

DEPARTMENT OF ADMINISTRATION

ARCHITECTURE & ENGINEERING DIVISION

1520 East Sixth Avenue, P.O. Box 200103

Helena MT 59620-0103

(Director/Administrator/Project Manager)

(Date)

ARTICLE 7. MISCELLANEOUS.

1. Taxes/Permits/Fees. The Contractor shall secure and pay for all permits and inspections, give all notices, pay all taxes and fees, and comply with all laws, ordinances, rules, regulations, and lawful orders bearing on the performance of the Work.
 2. Labor/Materials/Equipment. Unless otherwise specified, the Contractor shall provide and pay for all labor, materials, equipment, tools, utilities, transportation, temporary construction, and services for the proper execution and completion of the Work. Unless otherwise specified, all material and equipment provided shall be new and in good condition. All workmanship shall be of good quality and in keeping with the standard of the respective trades.
 3. Hiring Preference and Montana Products Preference. Products manufactured or produced in the State of Montana by Montana industry and labor shall be preferred for use in this project and in all materials, supplies, and equipment procured if such products, materials, equipment, and supplies are comparable in price and quality as prescribed in 18-1-112, Montana Code Annotated. For state construction projects within an Indian reservation, hiring preference will be given to Indian residents of the reservation who have substantially equal qualifications for any position. This preference will apply unless federal law specifically prohibits residency preference.
 4. Insurance. The Contractor shall maintain for the duration of the Contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the Work by the Contractor, its agents, employees, representatives, assigns, or Subcontractors.
 - a. Hold Harmless and Indemnification: the Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor, its agents, employees, or any third parties on account of bodily or personal injuries, death, or damage to property arising out of services or Work performed or omissions of work or in any way resulting from the acts, negligent or otherwise, or omissions of the Contractor, its agents, employees, assigns, and/or Subcontractors under this Contract.
 - b. Contractor's Insurance: **insurance required under all sections herein shall be in effect for the duration of the Contract.** Insurance required herein shall be provided by insurance policies issued only by insurance companies currently authorized to do business in the State of Montana. No Contractor or Subcontractor shall commence Work under this Contract until all required insurance has been obtained. During the term of this Contract, the Contractor shall, not less than thirty (30) days prior to the expiration date of any policy for which a certificate of insurance is required, deliver to the Owner a certificate of insurance with respect to the renewal insurance policy. The Contractor shall furnish one copy of insurance certificates of insurance herein required, which shall specifically set forth evidence of all coverage required by these Contract documents and which shall be signed by authorized representatives of the insurance company or companies evidencing that insurance as required herein is in force and will not be canceled, limited, or restricted without thirty (30) days' written notice by certified mail to the Contractor and the Owner. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage or limits. Additionally, all certificates shall include the project name and A/E project number.
 - c. The Contractor shall carry **Workers' Compensation Insurance.** Such Workers' Compensation Insurance shall protect the Contractor from claims made by its own employees, the employees of any Subcontractor, and also claims made by anyone directly or indirectly employed by the Contractor or Subcontractor. The Contractor shall require each Subcontractor similarly to provide Workers' Compensation Insurance.
 - d. The Contractor shall carry **Commercial General Liability Insurance** including coverage for premises, operations, independent contractor's protective, products, and completed operations, broad form property damage, and comprehensive automobile liability insurance with not less than the following limits of liability:

\$1,000,000 per occurrence; aggregate limit of \$2,000,000
- The **Commercial General Liability Insurance** and **Automobile Liability Insurance** shall provide coverage for both bodily injury, including accidental death and property damage which may arise out of the Work under this Contract, or operations incidental thereto, whether such Work and operations be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by the Contractor or the Subcontractor, or by anyone for whose acts any of them may be liable. The Contractor shall maintain completed operations liability insurance required herein for a period of not less than one (1) year after final payment or anytime the Contractor goes on to the location of the project.
- i. The Contractor's liability insurance policies shall list the STATE OF MONTANA as an additional insured. The STATE OF MONTANA includes its officers, elected and appointed officials, employees and volunteers, and political subdivisions thereof. Should the Contractor not be able list the State as an additional insured, the Contractor shall purchase a per-occurrence Owner's/Contractor's Protective policy with the STATE OF MONTANA as the insured party in the same occurrence and aggregate limits as those indicated above for the Contractor's Commercial General Liability Insurance policy.
 - ii. Property damage liability insurance shall be written without any exclusion for injury to or destruction of any building, structure, wires, conduits, pipes, or other property above or below the surface of the ground arising out of the blasting, explosion, pile driving, excavation, filling, grading, or from the moving, shoring, underpinning, raising, or demolition of any building or structure or structural support thereof.
 - iii. The Contractor's insurance coverage shall be PRIMARY insurance as respects the State, its officers, elected and appointed officials, employees, and volunteers. Any insurance or self-insurance maintained by the State, its officers, elected and appointed officials, employees, and volunteers shall be excess of the Contractor's insurance and shall not contribute to it.
5. Construction Contractor Registration. The Contractor is required to be registered with the Department of Labor & Industry under 39-9-201 and 39-9-204 MCA *before* the Contract is executed by the State of Montana for all projects greater than \$2,500.00, and a copy of the registration certificate must be provided to the Owner.
6. Gross Receipts Tax. In compliance with 15-50-206 MCA, the Contractor will have one percent (1%) of its gross receipts withheld by the Owner from all payments due for Contracts greater than \$5,000.00. Each Subcontractor who performs work greater than \$5,000.00 shall have one percent (1%) of its gross receipts withheld by the Contractor. The Contractor shall notify the Department of Revenue on the department's prescribed forms.
7. Equal Employment Opportunity. All hiring and other employment practices shall be nondiscriminatory, based on merit and qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.
8. Record Keeping. Payrolls and basic records pertaining to the project shall be kept on a generally recognized accounting basis and shall be available to the Owner, Legislative Auditor, the Legislative Fiscal Analyst, or his authorized representative at mutually convenient times. Accounting records shall be kept by the Contractor for a period of three (3) years after completion and acceptance of the project by the Owner.